

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

**STEVEN WADE, ALEX NORRIS,
ADAM NORRIS, and ANDREW
NORRIS, Individually, as Wrongful
Death Beneficiaries and on Behalf of the
ESTATE OF PENNY WADE,**

Plaintiffs,

V.

**J AND I LLC, JOSE CHAPARRO, AND
LUNDVALL ENTERPRISES, INC.**

Defendants.

[illegible]

Civil Action No. CV-16-807

DEFENDANTS' NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1441 and Federal Rule of Civil Procedure 81, Defendants J and I LLC ("J&I"), Jose Chaparro. ("Chaparro"), and Lundvall Enterprises, Inc. ("Lundvall") (collectively as, "Defendants") hereby remove to this Court, the state court action described in Paragraph 1 below. Pursuant to 28 U.S.C. § 1446(a), Defendants set forth the following "short and plain statement of the grounds for removal."

A. THE REMOVED CASE

1. The removed case is a civil action filed with the 271st Judicial District Court of Wise County, Texas, on or about February 2, 2016, styled *Steven Wade, Alex Norris, Adam Norris, and Andrew Norris, Individually, as Wrongful Death Beneficiaries and on Behalf of the Estate of Penny Wade v. J and I LLC and Jose Chaparro*, Cause No. CV16-02-084. Plaintiffs filed their First Amended Petition and Request for Disclosure in the underlying state court

proceeding on June 2, 2016, and in that pleading Plaintiffs added Lundvall Enterprises, Inc. as Defendant.

B. DOCUMENTS FROM REMOVED ACTION

2. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81.1, true and correct copies of all process, pleadings and orders in the State Court Action as of the date of this pleading are attached hereto. An index of matters being filed is attached hereto as *Exhibit 1*.

3. A completed civil cover sheet, supplemental civil cover sheet, and a signed Certificate of Interested Persons are being provided to the clerk separately for filing.

C. REMOVAL PROCEDURE

4. Except as otherwise expressly provided by Act of Congress, any civil action brought in a State Court of which the district courts of the United States have original jurisdiction may be removed to the district court of the United States for the district and division embracing the place where the action is pending. 28 U.S.C. § 1441. The Fort Worth Division of the Northern District Court of Texas is the United States district and division embracing Wise County, Texas, the county in which the State Court Action is pending.

5. J and I LLC and Jose Chaparro were never served with a copy of Plaintiff's Original Petition or Plaintiff's First Amended Petition. Lundvall Enterprises, Inc. was served with a copy of Plaintiff's First Amended Petition and Request for Disclosure on July 28, 2016, 2016. All Defendants filed their Original Answer to Plaintiff's First Amended Petition with the state court on August 22, 2016. This Notice of Removal is being filed within the 30-day time period from the date of service as specified in 28 U.S.C. § 1446(b).

6. Defendants will promptly give all parties written notice of the filing of this Notice of Removal and will promptly file a copy of this Notice of Removal with the Clerk of the 271st Judicial District Court of Wise County, Texas, where the action is currently pending.

D. VENUE IS PROPER

7. The United States District Court for the Northern District of Texas is the proper venue for removal of the state court action pursuant to 28 U.S.C. § 1441(a) because the 271st Judicial District Court of Wise County, Texas, is located within the jurisdiction of the United States District Court for the Northern District of Texas, Fort Worth Division.

E. DIVERSITY OF CITIZENSHIP EXISTS

8. This is a civil action that falls under the Court's original jurisdiction pursuant to 28 U.S.C. § 1332 and is one that may be removed to this Court based on diversity of citizenship in accordance with 28 U.S.C. §§ 1441 and 1446.

9. As admitted in their First Amended Original Petition, Plaintiffs are individuals and citizens of the State of Texas.

10. Lundvall Enterprises, Inc. is a corporation formed under the laws of Colorado. Lundvall Enterprises, Inc.'s principal place of business is located in Colorado. Pursuant to 28 U.S.C. § 1332(c)(1), Lundvall Enterprises, Inc. is a not a citizen of the State of Texas.

11. J and I LLC is a foreign limited liability company formed under the laws of Colorado. J and I LLC's principal place of business is located in Colorado. Pursuant to 28 U.S.C. § 1332(c)(1), J and I LLC is a not a citizen of the State of Texas.

12. Jose Chaparro is an individual and a citizen of the State of Colorado and resides in Colorado. Jose Chaparro is not a citizen of the State of Texas.

13. Because Plaintiffs are residents of the State of Texas and Defendants are not, complete diversity of citizenship exists pursuant to 28 U.S.C. § 1332.

F. THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED

14. Plaintiffs allege in Plaintiffs' First Amended Petition that they seek damages in excess of \$1,000,000.00 for their claims which include wrongful death and survival claims.

15. In light of Plaintiffs' allegation for monetary damages in excess of \$1,000,000.00 for claims including wrongful death and survival claims, the First Amended Original Petition, on its face, clearly indicates that Plaintiffs seek to recover damages in excess of \$75,000.

16. Based on the aforementioned facts, the current state court action may be removed to this Court by Defendants in accordance with the provisions of 28 U.S.C. § 1441(a) because: (i) this action is a civil action pending within the jurisdiction of the United States District Court for the Northern District of Texas; (ii) this action is between citizens of different states; and (iii) the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

G. FILING OF REMOVAL PAPERS

17. Pursuant to 28 U.S.C. § 1446(d), Defendants are providing written notice of the filing of this Notice of Removal to all counsel of record and is filing a copy of this Notice with the Clerk of the 271st Judicial District Court of Wise County, Texas, in which this action was originally commenced.

H. CONCLUSION

18. Defendants J and I LLC, Jose Chaparro, and Lundvall Enterprises, Inc. hereby remove the above-captioned action from the 271st Judicial District of Wise County Texas, and request that further proceedings be conducted in the United States District Court for the Northern District of Texas, Fort Worth Division, as provided by law.

DATED this 29th day of August, 2016.

Respectfully submitted,

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By: /s/ Zach T. Mayer

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**ATTORNEYS FOR DEFENDANTS
LUNDVALL ENTERPRISES, INC.,
J AND I LLC, AND JOSE CHAPARRO**

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of August 2016, a true and correct copy of the foregoing has been served on all counsel of record, pursuant to the Federal Rules of Civil Procedure.

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/s/ Zach T. Mayer
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